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January 30, 2020

MEMO ENDORSED

VIA ECF

Hon. Valerie E. Caproni
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

USDC SDNY
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Re: Franco Bautista, et al. v. 20th Street Pizza Corp, et al.; 19 CV 7008 (VEC)

Dear Judge Caproni:

We represent Plaintiff in the above-referenced matter. We write jointly with Defendants to respectfully request that tomorrow's conference be canceled, in light of the acceptance of Rule 68 offer of judgment filed yesterday (Dkt. No. 17). *See Yu v. Hasaki Restaurant, Inc.*, 944 F. 3d 395 (2d Cir. 2019) (judicial approval is not required of a Rule 68(a) offer of judgment settling FLSA claims).

We also note that we originally submitted a proposed judgment to be signed by the Clerk of Court (Dkt. No. 18) We then received a notice to resubmit the proposed judgment to be signed by the Judge, not the Clerk of Court, and filed a proposed judgment accordingly. (Dkt. No. 19) This direction appears to be at odds with Rule 68(a) which states that the clerk must enter judgment, and with *Yu v. Hasaki*, in which the Second Circuit remanded with instructions that the Clerk of Court enter judgment. *Yu*, 944 F. 3d at 414.

We thank the Court for its attention to this matter.

Respectfully Submitted,

/s/ Joshua S. Androphy, Esq.

January 30, 2020

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Joshua S. Androphy, Esq.
Michael Faillace & Associates, P.C.
Attorney for Plaintiffs

Application GRANTED. The pretrial conference
scheduled for January 31, 2020 is canceled.

SO ORDERED.



1/30/2020

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE